Randall V. Griffin
Assistant General Counse

800 King Street
Wilmington, DI

W DE 1989!

Tel 302 429 3016
Fax 302 429 3801
E-mail randall.griffin@conectiv

August 20, 2002

conectiv

Mr. William F. Stephens
Director, Division of Energy Regulation
State Corporation Commission
Box 1197
Richmond, VA 23218-1197

AUG 22 2002
DIVISION OF ENERGY REG

Re: Letter of June 10, 2002 on Default Service

Dear Mr. Stephens

Delmarva Power & Light Company, now a subsidiary of Pepco Holdings, Inc. appreciates this opportunity to provide you with our views regarding the provision of default service to retail customers. Delmarva's views on this subject are to a large degree the product of the experience that it and its affiliates have had within the PJM region. This experience includes:

- Delmarva currently performs the equivalent of what is referred to in Virginia as "default service" in Delaware and Maryland, where it is known by the name of "Standard Offer Service." At the present time, Delmarva's full requirements for this service is provided by an affiliate, Conectiv Energy Supply, Inc. ("CESI"), under a contract that places all risks and rewards with CESI. That is, Delmarva pays CESI an amount equal to the supply "shopping credit" in its unbundled Delaware and Maryland retail rates. CESI assumes the price and volume risks associated with default service, including costs associated with PJM's locational marginal pricing and congestion pricing mechanisms. There are rules in place in both Delaware and Maryland that reduce the risks related to larger customers who swing off and on the default service, i.e., either minimum stay requirements are imposed on a customer who returns to a fixed price default service or the price is variable based on PJM hourly energy rates and short-term capacity charges.[1]

[1] Neither the minimum stay nor the variable price requirements are imposed currently on residential or the smaller C&I customers, but a 12-month stay-put requirement will begin

- Delmarva affiliate Atlantic City Electric Company ("ACE") provides the equivalent of default service in New Jersey, where it is known as Basic Generation Service ("BGS"). At the present time, ACE's full requirements for this service are supplied through a wholesale bidding process that was established and bid-out by the New Jersey Board of Public Utilities (NJBPU) after months of negotiations and development by interested parties.

- Delmarva affiliate Potomac Electric Power Company ("Pepco") provides the equivalent of default service in Washington D.C. and portions of Maryland. At the present time, Pepco's full requirements for this service are supplied under contracts with Mirant Corporation, which were entered into as part of a larger transaction involving the sale of Pepco powerplants to Mirant.

- Until approximately mid-2001, Delmarva affiliate Conectiv Energy Supply, Inc. ("CESI") had an active electric retail marketing business operating in Delaware, New Jersey, Pennsylvania, and Maryland. CESI and related companies not subject to utility rate regulation are currently in the business of generating and trading electric energy, primarily in the PJM region but also in other regions.

- Delmarva has recently become affiliated with Pepco Energy Services, Inc., which is an active electric retail marketer operating within Delaware, New Jersey, Pennsylvania, Maryland, and the District of Columbia and also makes wholesale energy trades.

Delmarva's views with respect to the specific questions you have asked are as follows.

WHAT IS YOUR CURRENT THINKING RELATIVE TO HAVING A DEFAULT SERVICE PROVIDED BY A NON-INCUMBENT?

Delmarva's response to this question assumes that the term "default service" includes all the elements of service within Va. Code § 56-585. Delmarva further assumes that the question is intended to describe a retail service by a non-incumbent as opposed to a wholesale supply service by a non-incumbent to Delmarva who would use that supply to meet the default service requirements.

For reasons described below, Delmarva questions whether it is realistic to have an unregulated or lightly regulated competitive bidder provide default service. Therefore, in responding to this question, Delmarva also discusses briefly the concept of a

---

for Delaware residential and smaller C&I customers beginning at the end of the current transition periods (Nov. 2003 and Nov. 2002, respectively).

competitive wholesale supply source that would be used by the incumbent in its provision of default service.

Retail Service

The experience of Delmarva and its affiliated utilities and non-utilities strongly suggests that customers, particularly smaller customers, will want and demand that the default service be a regulated service provided by an entity that they trust and with prices that are subject to a degree of stability. Testimony and filed comments in cases in both Delaware and Maryland have made clear that it is not just residential customers who value a utility service with some price stability. Commercial and most industrial customers also place a high value on price stability so that they can make future budget plans. It has also become clear through discussions with these customers that recent market conditions and the financial failure or distress of prominent energy companies have raised substantial concerns about having a non-utility supply the default service. While some such customers are willing to contemplate having a non-utility supply the component of default service involving customers who fail to choose a competitive supplier, there have been clear statements that customers also would seek a utility backstop even behind the competitive default service provider to deal with situations where the non-incumbent provider itself defaults on its obligations or declares bankruptcy.

With this experience as background, Delmarva notes that it is not fundamentally opposed to having a non-incumbent be the default service provider. However, Delmarva questions whether such a service would adequately meet most customer needs. Moreover, Delmarva is opposed to making a non-incumbent responsible for only that portion of default service that involves customers who fail to choose a competitive retail supplier or is unable to find a willing competitive retail supplier for whatever reason. Delmarva believes that there should be one default service provider who will have sufficient load to plan a supply portfolio and assume the risk of non-paying customers. In Delmarva's view, it would be inordinately expensive for it or any other entity to act as a secondary backstop to the default supplier, either to provide service only to non-paying customers or stepping in on an emergency basis for a supplier who defaults on its obligations.

Irrespective of who provides the default service, there should be mechanisms that combine cost recovery with some degree of price stability. That does not mean that prices must be absolutely fixed for a period of years, but consideration should be given to a structure where prices might be fixed annually with different seasonal or quarterly rates. If the default service is to be a utility service, mechanisms to ensure cost recovery should be established. A variety of means for this exist, including the traditional tracking mechanism of comparing actual costs vs. prices with a deferred balance true-up in subsequent period. Alternatively, under the wholesale bidding approach described below, the need for a tracking mechanism would be greatly reduced because rates would be established based on the bid prices (cost to utility). Mechanisms that would reduce volume risk, such as "minimum stay" requirements for customers who switch to a competitive supplier and then return to the utility default service would also be appropriate to consider.

In the event that the Commission may split the default service into pieces, the entity obligated to provide such an emergency service should have an absolute regulatory assurance of recovering its costs. In this regard, Delmarva would note that while Va. Code § 56-586 offers the apparent power to permit the emergency service provider to charge the defaulting supplier for any costs of meeting an emergency, such power is somewhat illusory in the context of a supplier who defaults due to bankruptcy. In order to assure cost recovery, special pricing rules would need to be established, which in Delmarva's situation as a member of PJM would include mechanisms that would allow for the recovery of PJM hourly locational marginal pricing for energy, the actual costs of capacity and/or capacity deficiency charges, PJM transmission and ancillary charges and other administrative costs associated with responding to an emergency.

Such emergency situations should also be of short duration. Not only should the Commission establish regulatory mechanisms that would minimize the risks of a default by a competitive supplier of default services, but such mechanisms should also permit a rapid reassignment of the default service obligation to another willing provider in the event of a default by the original default service provider.

Delmarva would further note that a key consideration for the Commission in assessing whether a non-incumbent should be entrusted to provide default service is the appropriate level of creditworthiness of the non-incumbent. Obviously, two years ago, Enron would have met any reasonable creditworthiness test. Enron's bankruptcy, while unique in many aspects, certainly suggests that if a non-incumbent is to be the default service provider, the Commission will need to establish strong creditworthiness standards that are periodically reviewed. In addition, for Delmarva's service territory, any default service provider will need to be a member of the PJM Interchange, LLC, and meet the bonding, capacity obligation and other requirements of that organization.

Experience in other jurisdictions makes it clear that establishing a competitive default supplier will be viewed by a number of customers as a form of "slamming." The Commission should be aware that, as happened in Pennsylvania, a significant number of customers vocally objected after the fact to being assigned to a non-utility default service provider without their affirmatively selecting such supplier. Reports are similar from Georgia where non-incumbent gas suppliers were awarded the equivalent of the default service function. Reportedly, many customers were upset at being "slammed" to a supplier who they did not know and did not choose. The controversy apparently intensified when some of these non-incumbents withdrew from the market some time thereafter.

Wholesale Supply

Delmarva's affiliate in New Jersey, Atlantic City Electric Company, is currently providing the equivalent of retail default service with its supply being sourced through competitive wholesale bids. While Delmarva does not support all aspects of the bid process used in New Jersey, this is the model that Delmarva supports with respect to a default service provided to residential and smaller commercial and industrial customers. That is, Delmarva would recommend and support as the best way to proceed at this point, a properly constructed structure in which the regulated distribution utility serves as the default supplier, procuring its power in the competitive wholesale market. At some point in the near future, larger industrial customers may not need a default service provider.

The success or failure of a wholesale bidding approach would be largely dependent, of course, on the specific terms and conditions involved. For example, in order to dampen the potential of price volatility, which experience demonstrates customers most dislike, the default service provider must be assigned that role for a sufficient period to be able to assemble a portfolio of supply resources that does not all expire at the same time and which permits the use of price hedges, and other financial instruments to reduce risk and volatility. The supplier must be compensated for its assumption of risks as well. That is, one should expect that the bid prices would reflect any volume risk associated with customers leaving and returning to the default service and the risks of changes in the underlying supply markets.

The foregoing reflects the outline of a structure that Delmarva believes should be considered by the Commission. However, Delmarva notes that if the Commission were to implement such a structure, it may also be necessary to modify certain orders and underlying stipulations relating to Delmarva. In particular, a settlement entered into on or about June 12, 2000, in conjunction with its then-proposed sale of powerplants provides pricing mechanisms that would operate in the event that Delmarva continues to be the default service provider under capped rates after January 1, 2004. The pricing mechanism that is the initial method that is to be used relies on actual costs of procuring supply and, thus, is not inconsistent with the structure outlined above. There are, however, alternative "proxy" pricing mechanisms in that stipulation that would be inconsistent with a wholesale bid approach to meeting a continued default service obligation.

WHAT IS YOUR CURRENT INTEREST IN PROVIDING DEFAULT SERVICE TO RETAIL CUSTOMERS IN VIRGINIA?

Delmarva is responding to this question only from the perspective of its own retail service territory. Delmarva would not be interested in providing default service in other portions of Virginia, although certain of its affiliates might.

Delmarva believes that default service in its Virginia service territory on or after January 1, 2004, is most appropriately provided as a utility service with the supply for such service coming from wholesale competitive bids.

WHAT DO YOU VIEW AS TECHNICAL, REGULATORY OR LEGAL IMPEDIMENTS TO THE COMPETITIVE PROVISION OF DEFAULT SERVICE?

As noted above, one of the most significant issues to be addressed would be the appropriate level of creditworthiness and/or other security to be provided by any provider of default service. In addition, as also noted above, there are substantial economic and policy questions posed to the extent that there are separate components of default service including, for example, a "regular" default service provided by a competitive supplier and an emergency service provided by the utility or some other entity in case that supplier defaults. From a purely legal perspective, the statute contemplates the potential for breaking up the default service obligation into multiple pieces (Va. Code § 56-586 B.3). But, it is also legally permissible to assign a single entity to provide the entire default service. Delmarva would respectfully submit, that the better policy approach that the Commission should take is to establish strong creditworthiness tests, assign a single entity to be the default service provider, and periodically review creditworthiness so that the potential for emergencies due to supplier defaults is minimized.

In addition to the foregoing, the Commission should consider the length of time that is most appropriate for assigning the default service provider. In Delmarva's view, the period needs to be significantly longer than one year in order to permit portfolio procurement approaches that would limit price volatility.

If a non-utility were to provide a default service, the Commission would also need to consider what, if any, rules should be established to allow such a supplier to require customer deposits from new customers with no prior payment history or to terminate customers for non-payment. Currently, Delmarva's tariff contains such provisions, but a competitive default supplier would similarly need some mechanism to reduce the risks of non-payment for its supply service. Additional issues are outlined in the attachment discussed in response to the following question.

PLEASE COMMENT ON PROCEDURES RELATIVE TO COMPETITIVE BIDDING, ETC?

Attached is a modified outline of issues that were identified in a filing made with the Maryland Public Service Commission regarding retail and wholesale bidding models for standard offer service. The modifications are to remove aspects of the outline that were specific to Maryland issues and specific timetables. The term "standard offer service" or "SOS" in these outlines is the equivalent of default service. As is clear from the scope of the outlines, even a wholesale bid process to source the supply to be used by the incumbent default supply is somewhat extensive. However, such an approach is far less extensive and poses far fewer problems to be addressed than is the case with a retail bidding process that might be used to select a non-utility default service supplier.

WHAT SPECIFIC ACTIONS CAN/SHOULD THE COMMISSION OR THE LEGISLATURE TAKE TO ENHANCE THE COMPETITIVE PROVISION OF DEFAULT SERVICE?

As noted above, based on experience with customers in other jurisdictions, the competitive provision of default service is not perceived as a benefit by most customers and, in fact, raises concerns. Delmarva, therefore, does not believe that any specific actions should be taken by the Commission or the Legislature to enhance the competitive provision of default service. In Delmarva's view, the approach it has outlined above is workable and is consistent with the statute. Delmarva would note that any "enhancements" that may be contemplated should be carefully weighed against the risks associated with a supplier that may be inadequately capitalized or not sufficiently creditworthy.

Please call if you have any further questions regarding Delmarva's positions set forth herein.

Respectfully submitted,

Randall V. Griffin

cc: Guy T. Tripp, III, Esq.
Kirk J. Emge, Esq.
W. M. VonSteuben
W. R. Moore, Jr.

Appendix A

RETAIL BIDDING

A. Scope of Bid.

- If this approach were to be taken, the only service that should be initially bid out is the standard offer service, which, as defined herein, is the supply service to customers who are not supplied under an individually negotiated contract with a competitive electricity supplier. Due to PJM definitions and requirements, that standard offer service provider will also be a Load Serving Entity (LSE) and as such will be responsible for obtaining transmission and ancillary services sufficient to meet the obligations of an LSE.

- Meter reading, billing, and other customer services are not inherently part of the standard offer service and, given the large number of issues that would have to be addressed in a limited time even to have Supplier Provided SOS, the added complexity of bidding out other types of services is unwarranted.

  Either the entire customer base or "traunches" of customers could be bid out. After bids are awarded, the winning bidder(s) would be provided with a list of customers they would serve as standard offer service provider. These standard offer service suppliers should be obligated to contact the customers using educational material developed by the Commission.

  In order to minimize the complexities of establishing mechanisms to match the customers with the winning bidders, consideration should be given to using the existing enrollment processes. That is, approximately one month prior to the date that utility default service ends, the standard offer service providers would enroll all of their customers with the utility. The use of the existing enrollment process would minimize billing problems, because the utility billing systems are already designed to handle enrollments. In the course of this process, the utility would inform the standard offer service provider of any customer enrolled whose enrollment will not be acted upon because that customer is already enrolled with a competitive electricity supplier. The standard offer supplier would be responsible to serve any such customers who drop or are dropped by their existing competitive electricity supplier or who do not switch to another competitive electricity supplier or renew their contracts with the existing competitive electricity supplier when the supply contract terminates. Extensive modifications would be needed to existing billing systems to deal with customers who are then-currently served by a competitive electricity supplier and later seek standard offer service.

- How would new customers be assigned to a Retail SOS supplier if there is more than one supplier?

- Provisions to address re-assignment of customers if a supplier defaults?

B. Contractual Structure (who are the parties to the contract?)

In a Supplier Provided SOS context, there would not be a specific, executed contract between a retail customer and the standard offer service provider. Instead the equivalent of a tariff mechanism would be needed. That is, the retail customer would be informed of the identity of the standard offer service provider and would have legally sufficient access to a publicly available tariff-like document that would set forth the terms and conditions of service. These tariff-like documents could theoretically be negotiated by the Commission and a prospective bidder, but different prospective bidders may have different priorities, leading to an evaluation problem. That is, the Commission could be faced with the imponderable challenge of selecting among bidders with somewhat different prices paired with vastly different non-price terms and conditions. Perhaps the administratively simpler approach would be for the Commission to develop a set of tariff-like conditions as part of the Request for Proposals. Even then, the Commission would need to determine whether to permit non-conforming bids and, if so, how to assess non-conforming bids.

Delmarva has not attempted to match up its current tariff with the requirements that should be applied to a competitive electricity supplier in a retail bid context. At a minimum, however, these issues would need to be addressed:

- General Provisions to Define Terms, clarify when and how Commission regulations applied to utilities would also apply to Suppliers providing service under a retail bid structure;

- Any restrictions on rights to refuse to supply a customer and any exceptions to those restrictions;

- Dispute Resolution Procedures;

- Returning customer rules, including any special pricing or minimum stay requirements;

- Any customer deposit requirements including mechanisms to return deposits;

- Any changes to existing rules on posting sequences for partial payments,

- Any requirements to offer budget billing or other deferred payment plans, or assistance in accessing state programs;

- Separate prices for various service classifications, potentially different prices for blocks of power within those service classifications, rules for determining when a customer moves from one service classification to another;

- Mechanisms for adjusting charges under a variety of different circumstances;

- Conditions for and limitations on supplier liability, if any, to the customer for a failure to supply;

- Any rules that might be applicable to restrict customer use of the electricity provided (e.g., no resale, power factor requirements, etc.)

- Termination rights and restoration obligations;

- Special rules that may vary depending on the local utility service territory involved regarding interruptible customers or ALM, including any changes in responsibilities for bill credits of customers currently enrolled in Maryland sponsored demand-side management programs.

- Reporting requirements to the Commission (could include information on sources of supply and emissions, number of customer complaints, and other reports currently imposed on utilities.)

- Enforcement mechanisms to allow Commission to enforce its rules on standard offer service providers.

C. Qualifications.

This is a critical area. The supplier in a retail bid model will likely have a tremendously large potential exposure to swings in market prices for supply. Historically, utilities have been able to manage such exposure due to a combination of owning their own generation, assembling a portfolio of supply contracts with varying terms and conditions, having other valuable physical assets, strong financial capabilities leading to creditworthy bond ratings and an ability to tap into capital markets as needed, and fuel clauses that allow for true-ups of under-collections. California is a good example of what can happen, however, when these tools are eliminated: fuel clause protections were eliminated in conjunction with regulatory requirements for forced divestiture and required purchasing strategies that prohibited a portfolio approach to supply.

Unlike utilities, however, there are large numbers of potential standard offer service providers who will have few if any hard assets and have limited or no access to capital markets due to their bad or non-existent credit rating. (Delmarva would submit that it is no accident that many marketers have no credit rating and have limited assets. Even large multi-national companies owning powerplants all over the world will deliberately establish marketing subsidiaries as separate legal entities with limited resources so to reduce the potential reach of plaintiffs if market conditions are such that a business decision has to be made to cut losses by having the marketing subsidiary default on its obligations and/or declare bankruptcy.)

Given the way in which most marketing entities are structured with little or no assets, the Commission has essentially three choices: 1) establish strict requirements for bonding and other mechanisms to provide a financial cushion against standard offer service provider default; or 2) provide pricing mechanisms that include true-ups for under-collections or market-flexible prices to avoid under-collections; or 3) not use this retail bid model and instead establish procedures under which the utility is the standard offer supplier while the competitive suppliers bid at a wholesale level.

Any bonding requirement must recognize that non-payment by an LSE to PJM also gives rise to liabilities that are then spread by PJM to market participants including utilities. That is, in addition to the direct damages that would arise if a supplier of standard offer service defaults (based on capacity deficiency penalties, spot market energy prices, administrative costs associated with establishing an emergency supply), such a default will likely give rise to further damages when PJM assesses the local utility for a share of any losses that PJM and generators within PJM that accrue as the result of the default.

D. Performance Monitoring.

A significant policy decision must be made regarding the degree to which the Commission wants to be review a supplier's purchasing strategies and decisions. In general, Delmarva believes that such reviews are inappropriate, but would note that the basis for this policy result should not vary depending on whether or not the standard offer service provider is a marketer or a utility. That is, it does not become "more" appropriate for the Commission to engage in retroactive reviews of power purchase prices if it is the utility providing the standard offer service. The key determinant of the level of Commission involvement should instead be based on the degree of flexibility in pricing or true-ups. If, on one extreme, the winning bid is a fixed price, fixed term contract, or with prices that vary depending on indices outside the bidder's control, Commission involvement should be minimal. On the other hand, if the winning bid has prices that vary based on actual power purchase costs month-to-month, with automatic periodic true-ups, an increased level of Commission involvement may be warranted.

It is appropriate, in any circumstance, however, that bonding or other creditworthiness requirements be periodically reviewed. Last year, for example, PJM lost several million dollars as the result of two defaults by marketers who had put up bonds that were sufficient to cover their obligations at the time, but which became insufficient when the two marketers increased the scale of their businesses. PJM then charged other PJM members to recover these costs, most of which were assessed against utilities.

E. Surety

The Commission will need to readdress the different types of creditworthiness or surety bonds that a potential standard offer service provider should be willing to provide. The following is from the standard Billing Services Agreement that is in effect for Delmarva's New Jersey utility affiliate, Atlantic City Electric Company. A competitive electricity supplier is required to provide:

- a guarantee of payment, satisfactory in form and substance to the Company, from a Guarantor that has, and maintains, a minimum "BBB" or equivalent long term unsecured credit rating from Moody's Investors Service and Standard & Poor's Rating Services in an amount equal to sixty (60) days' maximum estimated collection of all charges payable to Company from customers, as reasonably estimated by the Company;

- an irrevocable Letter of Credit, satisfactory in form and substance to the Company, issued by a bank or other financial institution that is acceptable to the Company, that has, and maintains, a minimum "A" or equivalent long term unsecured credit rating from Moody's Investors Service and Standard & Poor's Rating Services in an amount equal to sixty (60) days' maximum estimated collection of all Customer charges payable to Company, as reasonably estimated by the Company;

- a Surety Bond or Performance Bond, including the Company as a beneficiary, satisfactory in form and substance to the Company and enforceable in the event of bankruptcy and in the Company's access to recourse thereunder in all contexts under Section 5.1 of this Agreement (including bankruptcy), issued by a financial institution that is acceptable to the Company, that has, and maintains, a minimum "A" or equivalent long term unsecured credit rating from Moody's Investors Service and Standard & Poor's Rating Services , in an amount equal to sixty (60) days' maximum estimated collection of all Customer charges payable to Company, as reasonably estimated by the Company;

- a cash deposit in an amount equal to sixty (60) days' maximum estimated collection of all Customer charges payable to Company, as reasonably estimated by the Company.

F. Bidding Process / Evaluation

The bidding process and methods for evaluating bids may be the most complex part of the entire process if the retail bidding model is followed. Among the key decisions that the Commission will need to make is:

- Whether to permit and how to evaluate competing bids where one bid has lower residential prices relative to other bids, but has higher commercial or industrial prices.
- Whether to permit and how to evaluate bids where there are seasonally-differentiated prices.
- Whether to permit and how to evaluate bids where partial true-ups or true-ups outside of collars are proposed.
- Whether to permit and how to evaluate bids that are for different periods of time.
- Whether to permit and how to evaluate bids that are based on monthly indices or other price indices for all or some customer classes or for returning customers.

G. Customer Education

Unless a single bidder is acceptable for the full requirements of the standard offer service within a utility's service area, a communication plan would have to be developed to address potential differences in "price to compare" depending on who a particular customer is assigned to. The utility can do bill inserts with general information about the program. The winning bidder, however, should be obligated to do separate and more intensive educational efforts on particulars of pricing. This can be mitigated somewhat if the PSC determines all customers in a rate class must have the same rate, even if there are multiple SOS providers.

H. Billing / Payment Priorities

Delmarva would not recommend any changes to the existing payment priority mechanisms. At the present time, it does not appear that any supplier in a retail bid structure would have the systems in place to provide consolidated billing. To avoid the added complexity that that approach would create, Delmarva would recommend that the only bill options for first few years should be dual billing or utility consolidated billing – bill ready, and utility consolidated billing – rate ready (if offered by utility).

I. Scope of Services

As noted above, Delmarva believes that, at least initially, any retail bid structure should be limited to the supply service only, leaving potentially important, but ultimately distracting and incidental issues such as metering to another time. The utility/supplier agreements will need revisions or supplementation.

Customer Classes

Consideration should be given to requiring separate bids for different customer classes. Otherwise, bid evaluation complexities will arise in evaluating bids that may have varying degrees of skew between residential and business classes.

K. Metering

If meter ownership is also being addressed, this may complicate matters greatly.

L. Customer Mobility

In order to reduce the level of risk (and thus reduce prices) for the equivalent of standard offer service offered by a competitive electricity supplier, stronger returning customer rules and more flexibly priced standard offer service requirements will almost certainly be required than is in current utility tariffs. In Delaware, for example, Delmarva has agreed to undertake the standard offer service through May 2006 as the result of the combination of: 1) an increase in a fixed supply portion of the standard offer service price of about 7% for non-residential customers and 3% for residential customers; 2) a degree of flexibility with respect to resetting transmission and ancillary service prices once during the period; and 3) strengthened returning customer rules that establish prices based on monthly indices for larger customers and a 12-month minimum stay rule for residential and small business customers. It is likely that any entity providing the equivalent of standard offer service, will seek similar or even stronger provisions to mitigate risk.

M. Customer Assignment/Institutionalized Slamming.

Unless the entire load is being bid out to one winning bidder, customers may need to be assigned into groups by lottery or other mechanisms prior to the RFP process so that the potential bidders can evaluate the load profile information of each "traunche" of customers.

N. Termination of Services

Delmarva does not believe that a retail bidding mechanism would necessitate any changes in utility tariffs for termination by the utility for non-payment of utility charges. The Commission would need to decide whether to permit the competitive electricity supplier to terminate for non-payment of supply charges. If so, termination rights and restoration obligations for a standard offer service provider would need to established through the tariff-like provisions set forth in the RFP and agreed to by a winning bidder. Those provisions would need to include notifications of terminations and restorations to the utility as well as the customer.

O. FTR Transfer

Delmarva opposes any requirement that Fixed Transmission Rights obtained through PJM or in open-market transactions by a utility be transferred to a supplier under a retail bid structure, unless the utility is compensated adequately. FTRs provide a hedge against congestion. That is, if Delmarva's has 3,000 MW of load subject to $10 per MW of congestion and has 1,000 MW of FTRs, Delmarva will pay $30,000 in congestion charges (3,000 MW of congestion at $10 per MW) but will receive back $10,000 for that hour as a result of holding FTRs. A certain number of FTRs are made available within each zone each year by PJM based on estimated levels of transmission transfer capacity and congestion. Those FTRs are allocated based on the requests made by Load Serving Entities and their relative shares of load within the zone. FTRs may also be obtained in a secondary sales market by negotiation or bid. In the event that Delmarva had sufficient FTRs to hedge more than its load, Delmarva would sell its excess FTRs into that open market. Confiscation of FTRs that Delmarva needs to hedge its load merely to give them to a competitive electricity supplier to hedge the supplier's load would be challenged.

P. Supplier Code of Conduct

Delmarva has not thoroughly examined the existing Codes of Conduct to develop a position as to which provisions should apply to competitive electricity suppliers and their affiliates once the supplier becomes a standard offer service provider. The general rule of thumb should be to establish rules that treat the utility and the supplier standard offer service provider the same.

Q. Utility Costs.

Some mechanism similar to a competitive transition charge may need to be developed to compensate utilities for the added implementation and ongoing administrative costs associated with having a retail bid structure created.

R. Timing

To summarize the number of tasks which must be completed prior to a retail bid being awarded:

- Define the scope of the services to be bid out. E.g., If supplier consolidated billing is to be a component of this, more time will be needed to address all details.

- If it seeks any special consideration for "Green Power," the Commission should issues such standards.

- Develop process
    - Enrollment procedures
    - Modification to rescission rules
    - Bill options allowed
    - Switching rules (a drop of a another supplier will reinstate the SOS supplier)
    - No drops allowed of SOS supplier
    - Determine and implement minimum stay rules
    - New customer assignment to SOS provider
    - Termination rules

- Define EDI / data exchange rules

- Development of RFP terms and conditions including tariff-like requirements as discussed above and explanations of how bids will be evaluated

- Consumer education

- Perform lottery to assign customers to groups

- RFP issuance

  RFP bids received

- RFP awarded

- Commission or Utility must provide winning bidder(s) list of customers

- Winning bidder(s) must notify customers

- Winning bidder(s) must enroll customers

Appendix B

WHOLESALE BIDDING

A. Scope.

- Threshold Issue: Depending on the finding that is made leading to a decision for the utility to provide the SOS, whether the utility's obligation can be met by the utility assembling a portfolio of supply from a variety of sources or whether there will be a required wholesale bidding process.

- To what degree the Commission should be involved in the process by which a utility assembles a portfolio of supply to meet the SOS obligations (low Commission involvement if utility has discretion to assemble a portfolio to provide a fixed price SOS to customers or a flexibly priced SOS based on PJM indices; intermediate Commission involvement if the SOS is based on actual prices of wholesale bids; high Commission involvement if based on actual costs with periodic true-ups).

- Type of Bid process – "auction" or closed RFP. If an auction, will customer classes be segmented by rate class?

- Will the process be held statewide or be utility specific? Who will administer the bidding process?

- Will the wholesale equivalent of the retail load of all customer segments be bid or the retail load of residential and small commercial and small industrial customers?

B. Wholesale Bidding Process and Performance Monitoring.

- Whether and to what extent the Commission will be active in developing and issuing the Request for Proposals vs. reviewing utility proposed RFP; whether and to what extent the Commission will be active in evaluating bids vs. reviewing utility awards); whether and to what extent the Commission will "approve" the award.

- Whether any special consideration is to be given to "Green Power," and, if so, what Commission rules will be established relative to such consideration.

- Whether to permit and how to evaluate bids where there are seasonally-differentiated prices.

- Whether to permit and how to evaluate bids that are for different periods of time.

- Whether to permit and how to evaluate bids that are based on monthly indices or other price indices for all or some customer classes or for returning customers.

C. Customer Education

- Whether any additional customer education is needed as a result of the minimal changes that would face the customer if the utility remained the SOS.

D. Pricing, Terms and Conditions

- To what degree and how should any changes in SOS prices be established; whether or not any changes are needed to address seasonality of SOS prices or differentials among customer classes.

- If wholesale bidding is used to establish SOS prices, whether those prices will be uniform for all customers (all supplier bids averaged to determine end-user supply component of SOS rates), or uniform for all customers within a class (if bidding structure permits suppliers to bid to serve the wholesale equivalent of the retail load of specific customer classes), or will vary as a result of some other mechanism.

- How to address load fluctuations over time (growth and loss) and whether the treatment should vary as a function of overall load fluctuations or by load fluctuations within a traunche.

E. Customer Classes

Consideration should be given to requiring each bidder to bid for a fixed percentage (i.e. traunche) of each utility's total full requirements load as the simplest and most easily implemented method of bidding.

F. Customer Mobility

- Whether to revise and expand returning customer rules as a risk mitigation measure to minimize wholesale bid prices and/or utility exposure as an alternative to retail choice moratoria.

- As part of the settlement of its merger case in Delaware, for example, Delmarva agreed to undertake the standard offer service through May 2006 under the following conditions: 1) an increase in a fixed supply portion of the standard offer service price of about 7% for non-residential customers and 3% for residential customers; 2) a degree of flexibility with respect to resetting transmission and ancillary service prices once during the period; and 3) strengthened returning customer rules that establish prices based on monthly indices for larger customers and a 12-month minimum stay rule for residential and small business customers.

G. Utility Costs.

- Whether incremental administrative costs of utilities related to a utility provided SOS service should be recovered through base rates or some mechanism similar to a competitive transition charge.

Timing

The number of tasks which must be completed prior to a wholesale bid being awarded is substantially smaller than for a retail bid model.

- Commission issues standards, if any, for "Green Power."
- Utility will define the scope of the services (including a wholesale supplier agreement) to be bid out.
- Using existing propriety or standard form wholesale contract packages, utilities will develop RFP terms and explanations of how bids will be evaluated; no new tariff-like requirements would be required because the utility tariffs already exist.
- Consumer education requirements will be minimal.
- RFP issuance.
- RFP bids received.
- RFP awarded and any necessary tariff changes filed to reflect SOS price.